

# Shell Oil Company



P.O. Box 2463  
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Houston, TX 77252-2463

April 3, 2001

APR 06 2001



## VIA FEDERAL EXPRESS

Ms. Deena Sheppard-Johnson, SR-6J  
U.S. Environmental Protection Agency, Region 5  
Remedial Enforcement Support Section  
77 West Jackson Boulevard  
Chicago, IL 60604

Re: *The Chemical Recovery Systems Site,  
Elyria, Ohio  
Response of Shell Oil Company to  
EPA's CERCLA 104(e) Information Request*

Dear Ms. Sheppard-Johnson:

This letter, including attachments, is the response of Shell Oil Company ("Shell") to the above captioned Information Request dated March 2, 2001 and received by Shell on March 6, 2001. The EPA requested a response to the Information request within 30 days of receipt. In a separate letter dated March 16, 2001, Shell responded to EPA's Notification of Potential Liability at the above-referenced Site.

As an initial matter, Shell has attempted in good faith to respond to the Information Request to the extent that it seeks information authorized by 42 U.S.C. §9604(e)(2) but objects generally to the Information Request on the following grounds:

1. Shell objects generally to the Information Request on the ground that it is overly broad, seeking information not authorized by statute. Section 104(e)(2) of CERCLA, 42 U.S.C. §9604(e)(2) identifies three, and only three, categories of information that a duly designated representative of the President may seek from any person to the unilateral administrative process authorized by that provision. Some of the information sought by this Information Request is outside those categories.
2. Shell objects generally to the instructions, definitions and questions contained in the Information Request on the grounds that they are irrelevant, vague, unduly burdensome, unreasonably broad, and an abuse of discretion, or arbitrary and capricious.

Although Shell has attempted to respond in good faith to the Information Request, the responses set forth herein are based upon information currently available to Shell. Shell reserves the right to amend the responses set forth herein if additional or different information is subsequently discovered.

To briefly summarize this response, this Information Request was addressed to Shell Chemical at 130 N. Jones Avenue, Akron, Ohio. Shell originally purchased the business and leased the property at this address from the Goodyear Tire and Rubber Company in 1992, then subsequently sold the business to M&G Polymers in June, 2000. The only Shell entity which has ever occupied the facility is a Research and Development group which leases one wing of the building. As indicated above, Shell did not lease this location until well after the Chemical Recovery Systems Site ceased operation in 1981. Shell has not identified any documents or persons with knowledge concerning this Site nor has it located any information that in any way suggests that Shell arranged for the disposal/treatment of any materials at the Site.

Shell's response to the Information Request is attached.

Very truly yours,



for

Gary A. Thompson  
Manager Remediation

Enclosure

## **RESPONSE**

### **QUESTION NO. 1:**

Identify all persons consulted in the preparation of the answers to these questions.

### **RESPONSE TO QUESTION NO. 1:**

Edward N. Nowak  
Staff Regulatory Scientist  
Shell Chemicals  
Polyester Business  
130 North Johns Avenue  
Akron, OH 44305-4097

John A. Semander  
Legal Assistant  
Shell Oil Company  
P.O. Box 2463  
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Mary E. Smith  
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Sherrie C. Davenport  
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### **QUESTION NO. 2:**

Identify all documents consulted, examined, or referred to in the preparation of the answers to these questions and provide copies of all such documents.

### **RESPONSE TO QUESTION NO. 2:**

Shell agrees to identify documents relied upon to the extent such documents are responsive and not otherwise privileged.

**QUESTION NO. 3:**

If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question or who may be able to provide additional responsive documents, identify such persons.

**RESPONSE TO QUESTION NO. 3:**

None identified

**QUESTION NO. 4:**

List the EPA Identification Numbers of the Respondent.

**RESPONSE TO QUESTION NO. 4:**

Shell Oil Company is a large corporation with numerous past and present operations in exploration and production, transportation, refining of crude and natural gas, and downstream distribution marketing of oil and chemical products from facilities located throughout the United States for which EPA has issued RCRA identification numbers. Shell does not have a central listing of these numbers. The Resource Conservation and Recovery Information System ("RCRIS") is available on EPA's mainframe computer through the Office of Solid Waste and Emergency Response, Office of Solid Waste.

**QUESTION NO. 5:**

Identify the acts or omissions of any person, other than your employees, contractors, or agents, that may have caused the release or threat of release of hazardous substances, pollutants, or contaminants and damages resulting therefrom at the CRS Site.

**RESPONSE TO QUESTION NO. 5:**

None identified.

**QUESTION NO. 6:**

Identify all persons including respondent's employees, who have knowledge or information about the generation, use, treatment, storage, disposal, or other handling of material at or transportation of materials to the Site (operating as Obitts Chemical Company or Chemical Recovery Systems, Inc., at 142 Locust Street, Elyria, Ohio).

**RESPONSE TO QUESTION NO. 6:**

None identified.

**QUESTION NO. 7:**

Describe all arrangements that Respondent may have or may have had with each of the following companies and persons:

- a) Obitts Chemical Company
- b) Russell Obitts
- c) Chemical Recovery Systems, Inc.
- d) Peter Shagena
- e) James Freeman
- f) James "Jim" Jackson
- g) Donald Matthews
- h) Bob Spears
- i) Bill Bromley
- j) Carol Oliver
- k) Nolwood Chemical Company, Inc.
- l) Art McWood
- m) Chuck Nolton
- n) Michigan Recovery System, Inc.
- o) Chemical Recovery Systems of Michigan

**RESPONSE TO QUESTION NO. 7(a)-(o):**

None identified.

**QUESTION NO. 8:**

Set forth the dates during which the Respondent engaged in any of the following activities:

- a) generation of hazardous materials which were sent to the CRS Site;
- b) transportation of any material to the CRS Site.

**RESPONSE TO QUESTION NO. 8(a)-(b):**

Not applicable.

**QUESTION NO. 9:**

Identify all persons, including yourself, who may have arranged for disposal or treatment, or arranged for transportation for disposal or treatment, of materials, including, but not limited to, hazardous substances, at the CRS Site. In addition, identify the following:

- a) The persons with whom you or such other persons made such arrangements;
- b) Every date on which such arrangements took place;
- c) For each transaction, the nature of the material or hazardous substance, including the chemical content, characteristics, physical state (e.g., solid, liquid), and the process for which the substance was used or the process which generated the substance;
- d) The owner of the materials or hazardous substances so accepted or transported;
- e) The quantity of the materials or hazardous substances involved (weight or volume) in each transaction and the total quantity for all transactions;
- f) All tests, analyses, and analytical results concerning the materials;
- g) The person(s) who selected the CRS Site as the place to which the materials or hazardous substances were to be transported;
- h) The amount paid in connection with each transaction, the method of payment, and the identity of the person from whom payment was received;
- i) Where the person identified in g., above, intended to have such hazardous substances or materials transported and all evidence of this intent;

- j) Whether the materials or hazardous substances involved in each transaction were transshipped through, or were stored or held at, any intermediate site prior to final treatment or disposal;
- k) What was actually done to the materials or hazardous substances once they were brought to the CRS Site;
- l) The final disposition of each of the materials or hazardous substances involved in such transactions;
- m) The measures taken by you to determine the actual methods, means, and site of treatment or disposal of the material and hazardous substance involved in each transaction;
- n) The type and number of containers in which the materials or hazardous substances were contained when they were accepted for transport, and subsequently until they were deposited at the CRS Site, and all markings on such containers;
- o) The price paid for (i) transport, (ii) disposal, or (iii) both of each material and hazardous substance;
- p) All documents containing information responsive to a-o above, or in lieu of identification of all relevant documents, provide copies of all such documents;
- q) All persons with knowledge, information, documents responsive to a-p above.

**RESPONSE TO QUESTION NO. 9(a)-(q):**

Shell has not identified any documents or information which would indicate that Shell arranged for the disposal/treatment of material at the Site.

**QUESTION NO. 10:**

Identify all liability insurance policies held by Respondent from 1960 to the present. In identifying such policies, state the name and address of each insurer and of the insured, the amount of coverage under each policy, the commencement and expiration dates for each policy, whether or not the policy contains a "pollution exclusion" clause, and whether the policy covers or excludes sudden, nonsudden, or both types of accidents. In lieu of providing this information, you may submit complete copies of all relevant insurance policies.

**RESPONSE TO QUESTION NO. 10:**

For all potential time periods involved, Shell has had Comprehensive General Liability insurance which Shell believes covers releases of hazardous wastes and substances as a

result of handling of such materials. Since each policy is subject to various conditions and exclusions, interpretation/application of any one policy to a given situation is, however, dependent on the facts and circumstances of the situation.

Since 1975 Shell has been self-insured for the first layer of liability. The self-retention currently is \$20 million. Depending on the date of any occurrence for which Shell has liability, such liability may fall completely within Shell's self-retention amount and not be covered by any insurance. In this regard, it should be noted that Shell is a major company with substantial assets.

Finally, Shell's liability insurance provides indemnification only where Shell has liability. If Shell has no liability for a given situation, there is no duty on the part of the insurers to indemnify Shell. Given the information available to us at this point, it appears that Shell may have no liability with respect to the Site, and thus, that Shell would have no basis to seek indemnification from its insurers.

If the EPA has need for specific information relating to liability insurance, Shell would address such a request. We trust our response adequately responds to your concerns on this issue.

**QUESTION NO. 11:**

Provide copies of all income tax returns, including all supporting schedules, sent to the Federal Internal Revenue Service in the last five years.

**RESPONSE TO QUESTION NO. 11:**

Shell specifically objects to this request on the grounds that it is irrelevant, overly broad, and unreasonably burdensome. Subject to and without waiving these objections and the general objections incorporated herein, Shell responds as follows:

For reasons stated above, Shell objects to the production of federal income tax returns and therefore declines to provide that information at this time. Shell understands that this question is an inquiry into Shell's ability to pay or perform a cleanup pursuant to CERCLA §104(e)(c). In response to that inquiry, Shell is providing as Attachment A, a copy of Shell Oil Company's most recent annual Reviews/Reports and Form 10-K filings with the SEC which provide financial information for the last five years on this issue.

Shell believes that the documents submitted as Attachment A (Shell Oil Company's Annual Reviews/Reports and 10K Filings for the years 1995-1999) provide adequate and comprehensive financial information on this issue.



**QUESTION NO. 12:**

If Respondent is a Corporation, respond to the following requests:

- a) Provide a copy of the Articles of Incorporation and By-Laws of the Respondent.
- b) Provide Respondent's financial statements for the past five fiscal years, including, but not limited to, those filed with the Internal Revenue Service and Securities and Exchange Commission.
- c) Identify all of Respondent's current assets and liabilities and the person(s) who currently own(s) or is (are) responsible for such assets and liabilities.
- d) Identify the Parent Corporation and all Subsidiaries of the Respondent.

**RESPONSE TO QUESTION NO. 12:**

- a) Please see Attachment B for a copy of Shell's Articles of Incorporation and By-Laws.
- b) Please see Attachment A for copies of Shell Oil Company's Annual Reviews/Reports and 10K filings for the years 1995-1999.
- c) Shell objects to this request on the grounds that it is overbroad, seeking information not authorized by statute. Without waiving this objection, Shell responds as follows:

Shell believes that this Information Request is seeking inquiry on matters noted in CERCLA §104(e)(2)(C). In that regard, please be advised that Shell is a large corporation with substantial assets. Information on Shell's assets is provided in the Annual Reviews/Reports enclosed as Attachment A.

The Officers and Board of Directors of Shell Oil Company are identified in Attachment C.

- d) Shell Oil Company is wholly owned by Shell Petroleum, Inc., a Delaware corporation, whose shares are directly or indirectly owned 60% by Royal Dutch Petroleum Company, The Hague, Netherlands, and 40% by the Shell Transport and Trading Company, Public Limited Company, London, England. Royal Dutch Petroleum Company and the Shell Transport and Trading Company, Public Limited Company, are holding companies which together directly or indirectly own securities of the Royal Dutch/Shell group of companies. Royal Dutch Petroleum Company and Shell Transport and Trading Company acquired the stock of Shell Oil Company in 1985.

See Attachment D for a current list of subsidiaries and affiliate companies.

**QUESTION NO. 13:**

If Respondent is a Partnership, respond to the following requests:

- a) Provide copies of the Partnership Agreement;
- b) Provide Respondent's financial statements for the past five fiscal years, including, but not limited to, those filed with the Internal Revenue Service and Securities and Exchange Commission.
- c) Identify all of Respondent's current assets and liabilities and the person(s) who currently own(s) or is (are) responsible for such assets and liabilities.
- d) Identify all subsidiaries of the Respondent.

**RESPONSE TO QUESTION NO. 13:**

Not applicable.

**QUESTION NO. 14:**

If Respondent is a Trust, respond to the following requests:

- a) Provide all relevant agreements and documents to support this claim.
- b) Provide Respondent's financial statements for the past five fiscal years, including, but not limited to, those filed with the Internal Revenue Service and Securities and Exchange Commission.
- c) Identify all of Respondent's current assets and liabilities and the person(s) who currently own(s) or is (are) responsible for such assets and liabilities.

**RESPONSE TO QUESTION NO. 14:**

Not applicable.